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April 5, 2022

**Via CM/ECF**

The Honorable Pamela K. Chen  
United States District Court for the Eastern District of New York  
255 Cadman Plaza East  
Brooklyn, New York 11201

**Re: *United States v. Hernan Lopez, Carlos Martinez*, No. 15-cr-252-32, 33 (PKC)**

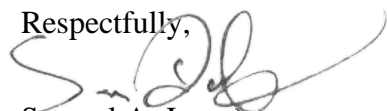
Dear Judge Chen,

Defendants Carlos Martinez and Hernan Lopez respectfully submit this letter regarding their Application for Subpoena Pursuant to Federal Rule of Criminal Procedure 17 (the "Application") filed on March 18, 2022 (ECF 1754). In light of the government's representation that PwC does not possess the BES data that the subpoena seeks (ECF 1763), Mr. Martinez and Mr. Lopez withdraw the Application. We write briefly to address the government's assertion that we somehow misled the Court.

The Application was not misleading. The government previously represented that Burzaco's BlackBerry was returned to its factory settings on May 29, 2015, and during a meet-and-confer call, the government stated that Burzaco would testify that he did not "wipe" the phone. Based on these representations, the defense logically concluded that Burzaco told the government that he did not reset his BlackBerry to its factory settings.

Mr. Martinez and Mr. Lopez maintain that their Application satisfies the standard for issuance of a trial subpoena, but they withdraw the Application in light of the government's representation that PwC does not possess the information that the defense sought through the subpoena.

Respectfully,



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